

Deficiency Progress Report – Update 1

Report Submitted: September 8, 2009

CUPA: Humboldt County Division of Environmental Health

Evaluation Date: June 9 and 10, 2009

Evaluation Team:

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Corrected Deficiencies: 1, 2

Next Progress Report (Update 2) Due: December 7, 2009

[Please update the deficiencies below that remain outstanding.](#)

1. **Deficiency:** The CUPA did not correctly report information on its Annual Summary Reports.
 - The Annual Single Fee Summary Report (Report 2) for fiscal year (FY) 2007/2008 shows that the CUPA's total Permit by Rule (PBR) is 1 and Conditional Exemption (CE) is 4. Annual Inspection Summary Report (Report 3) shows that CUPA's total Onsite Hazardous Waste Treatment (PBR, CA, CE) is 4. Upon discussion with the Director, it was discovered that the CUPA's total regulated Onsite Hazardous Waste Treatment may be 1.
 - Report 2 for FY 2006/2007 shows that the CUPA's total Permit by Rule (PBR) is 1 and Conditional Exemption (CE) is 2. Report 3 shows that CUPA's total Onsite Hazardous Waste Treatment (PBR, CA, CE) is 2. Upon discussion with the Director, it was discovered that the CUPA's total regulated Onsite Hazardous Waste Treatment may be 1.
 - In the Report 3 for FY 2006/2007, the CUPA reported only 5 CalARP routine inspections when 7 CalARP audits were performed. The CUPA's audits usually include routine compliance inspections.
 - Report 3 for FY 2007/2008 does not contain the percent of routine inspections with Class 1 or Class 2 violations that returned to compliance (RTC) within 90 days. In addition, Report 3 shows that the CUPA's total RCRA large quantity

generators (LQGs) are 4. Upon discussion with the Director, it was discovered that the CUPA's total RCRA LQGs may be 2.

- In the Annual Enforcement Summary Report (Report 4) for FY 2007/2008, the CUPA only reported 1 administrative enforcement order (AEO) for 3 program elements, but internal records showed that the CUPA issued 14 AEOs. In addition, Report 4 does not contain the correct number of informal enforcement actions and penalty amounts.

Preliminary Corrective Actions: By September 10, 2009, the CUPA will submit its revised FY 2006/2007 and 2007/2008 Summary Reports that contain the correct information.

Please submit copies of the corrected Summary Reports along with the first progress report.

CUPA's 1st Update (9-8-09): Revised reports are included as Attachment I. Corrections were made to the 06/07 and 07/08 Report 2 Onsite Treatment numbers; 07/08 Report 3 Generators (all) inspection summary numbers (the RTC for Generators (all) is not available from our database and is so noted); 07/08 Report 4 number of informal actions, violation counts by type, and number and amounts of AEOs.

The number of AEOs issued in 2007/2008 was two, as reported: one in the Hazardous Waste Generator program (Carter Properties) and one that included fines for Aboveground Storage Tanks, Hazardous Waste Generator, Business Plan, and Underground Storage Tanks (Lucas Hall). The confusion arose when column one on the attached spreadsheet entitled "Combined Humboldt County AEOs – All Years" was used as a reference for determining when AEOs were issued. Column one refers to the year that the violations were found and the enforcement review process was initiated. The year the AEO was issued and settled is shown on the spreadsheet my color/Fiscal Year in the Site Name column in bold. This was the source of the penalty information on the corrected Report 4. Note: Total settlements are reported on the spreadsheet. The total penalties collected in each AEO are proportionately split into programs based on the number of violations cited in each program in the AEO.

Cal/EPA's 1st Response: There are still some problems on the FY 07/08 Annual Enforcement Summary Report. The report does not contain the total number of formal enforcement actions initiated in FY 07/08. Instead, it reports the number of formal enforcement actions that were settled in FY 07/08. For example, the AEO totals document sent shows that 14 AEOs were initiated in FY 07/08, but only 1 settled AEO was reported in the 4 program element rows in which the violations were found. Also, the columns for local AEOs (authority granted by local ordinance), AEOs (authority granted by the Health and Safety

Code), and AEOs issued within 240 days (for the hazardous waste program) are mutually exclusive. A H&SC AEO cannot also be reported in the local AEO column. The AEO may be reported in the "AEOs issued within 240 days" column in the HWG row if the criteria was met.

By November 10, 2009, please amend the CUPA's FY 07/08 and 08/09 Annual Enforcement Summary Reports. Email the reports to Cal/EPA, attention: Kareem Taylor.

Cal/EPA's 2nd Response: The CUPA resubmitted the Summary Reports with all the required corrections. Cal/EPA and DTSC consider this deficiency corrected.

2. **Deficiency:** The CUPA has not inspected every stationary source subject to the CalARP program within the past three years. From the last three summary reports, the CUPA inspected 9 stationary sources in FY 2005/2006, 5 in FY 2006/2007, and 1 in FY 2007/2008, for a total of 15 inspections. At the time the FY 2007/2008 summary report was submitted, there were 21 stationary sources.

Preliminary Corrective Actions: By June 10, 2010, the CUPA will inspect at least one-third of its stationary sources.

Along with the second progress report, the CUPA will submit an action plan to ensure that all stationary sources will be inspected every three years.

CUPA's 1st Update (9-8-09): The following CalARP facilities were inspected since the audit:

- 1) Loleta CSD
- 2) City of Arcata Sewage Treatment Plant / Corp Yard
- 3) City of Arcata Alliance Transfer Station
- 4) Humboldt Bay Municipal Water District Essex Operation Center
- 5) McKinleyville Community Services District Wastewater Treatment Plant

The following CalARP facilities are scheduled for inspection this quarter:

- 6) Garberville WWTP- Due by 10/13/2009
- 7) PALCO-Due by 10/10/2009
- 8) Resort Improvement WWTP and WTP- Due by 10/12/2009
- 9) City of Eureka WWTP and WTP-Due by 10/6/2009.

This will total nine inspections in the first half of FY 09/10, meeting the requirement of the audit.

Cal/EPA's 1st Response: Cal/EPA and Cal EMA consider this deficiency corrected.

3. **Deficiency:** The CUPA has not yet obtained business plans from all businesses subject to the business plan program. Specifically, agricultural handlers, at this time, are neither regulated under the business plan program, nor properly exempted from the provisions of this program.

Preliminary Corrective Actions: After many setbacks, the Humboldt County Department of Agriculture has received business plan questionnaire feedback from about half of the ag handlers polled. By June 10, 2010 the CUPA, in conjunction with the Ag Department, will submit an action plan to either regulate ag handlers under HSC Chapter 6.95, Article 1, or to individually exempt them under one of the provisions of HSC section 25503.5.

CUPA's 1st Update (9-8-09): The Humboldt County Department of Agriculture has identified the facilities in its program and implemented inspections with one inspector who has been trained in the Hazardous Waste Generator and Business Plan programs. Aboveground storage tank inspection training is scheduled for October 2009. A questionnaire was sent to all known growers in the county in early 2009, with the following results:

Questionnaires sent = 347

Businesses confirming that they met CUPA program thresholds = 19

Businesses indicating that they did not meet CUPA program thresholds = 134

"Returned to Sender" responses = 22

"Out of Business" responses = 6

All responses = 182

Inspection activities:

Inspections Completed = 11

Requested Business Plans = 11

Plans Received = 9

Violations = 0

Inspection Types

Business Plan Inspection = 11

HazWaste Generator Inspection = 0

Cal/EPA's 1st Response: Please refer to Cal EMA's Response.

- **Cal EMA's Response:** The CUPA is making inroads into the agricultural population. Please report your progress with the next quarterly update.

4. **Deficiency:** The CUPA's 2008 area plan did not contain the pesticide drift elements required by Senate Bill 391 (2004). Additionally, the area plan did not contain a reporting form similar to the model form shown in Title 19, section 2720.

Preliminary Corrective Actions: By September 10, 2009, the CUPA will append a reporting form to the area plan and supply a copy of the form with the first quarterly update. By June 10, 2010 the CUPA will ensure that the area plan includes all of the required information from 19CCR 2722-2728, including pesticide drift elements.

CUPA's 1st Update (9-8-09): The reporting form from Title 19, Section 2720 is attached and has been incorporated into the 2008 Area Plan. Also attached is the document entitled, "Summary of Revisions to Humboldt County 2008 Area Plan as required by June 2009 CUPA Audit". The required form (below) was added to the Area Plan.

CHECKLIST FOR AREA PLAN ELEMENTS

Reference Section

Section 2722-Emergency Response Procedures

Approach, Recognition & Evaluation
Personnel Monitoring & Decontamination
Equipment Monitoring & Decontamination

Section 2723-Pre-emergency Planning

Pre-incident site surveys
Planning & Coordination
Emergency Funding Access
Disposal Facility Access
Emergency Response Contractor Access
Integrated Response Management System

Section 2724- Notification & Coordination

Notification & Coordination
Emergency Communications
Responsibility Matrix
OES Notification

Section 2725-Training

Emergency Response Personnel Training
Training Documentation

Training Exercises

Section 2726-Public Safety & Information

Site Perimeter Security
Safety Procedure Information
Information Release Responsibility
Medical Notification
Evacuation Plans

Section 2727-Supplies and Equipment

Listing & Description
Testing & Maintenance

Section 2728-Incident Critique and Follow-up

Critique and follow-up

Reference to Humboldt County Hazardous Materials Area Plan

Part II, pg. 4-12
Part II, pg. 12-17, Part (I)
Part II, pg. 24

Part I, pg. 39, Part A, B and C
Part I, pg. 4-41
Part II, pg. 26-36
Part II, pg. 16
Part II, pg. 26-36
Part I, pg. 1, pg. 30-37, Part L

Part II, pg. 1 & 2, Part L
Part E
Part I, pg. 7-30
Part II, pg. 4-17

Part II, pg. 4-17, Part F & H
Each Agency maintains it's own training
documentation
Part I, pg. 40

Part II, pg. 5, 10-12
Part II, pg. 10-12
Part I, pg. 11-13, part II, pg. 10
Part K
Part II, pg. 10-12

Part B, D
Individual agencies responsible for
maintenance and testing.

Part I, pg. 40

Cal/EPA's 1st Response: Please refer to Cal EMA's Response.

- **Cal EMA's Response:** The reporting form supplied is satisfactory. That part of the deficiency has been corrected. Please forward the pesticide drift language when it becomes available, and the remainder of the deficiency will be reevaluated at that time.

5. Deficiency: The CUPA has not prepared an annual CalARP performance audit.

Preliminary Corrective Actions: By December 10, 2009, the CUPA will carry out a performance audit, and include a copy of this audit with the second quarterly update. Subsequently, at the CUPA's option, the elements of 19CCR 2780.5 can be appended to the annual Title 27 self audit.

CUPA's 1st Update (9-8-09): Not started – will be completed by December 10, 2009.

Cal/EPA's 1st Response: Please refer to Cal EMA's Response.

- **Cal EMA's Response:** Please forward a copy of the performance audit when it becomes available.

6. **Deficiency:** The CUPA's Underground Storage tank (UST) facility files reviewed did not contain current Unified Program facility, tank, and monitoring application forms.

Preliminary Corrective Actions: By June 30, 2010, all UST facility files will be updated with the new Forms A (Facility Information), B (Tank Information), and D (Monitoring) which contain new fields of information from the old forms. This can be done during the annual compliance inspection by leaving the new forms with the owner/operator for completion or the CUPA can pre-populate owner/operator information into the form functional Word documents and leave copies with the facility. The new forms were part of the new Title 27 regulations adopted last year.

Another alternative is to use Envision Connect (when in operation) or CERS (currently under development) portals. UST owner/operator may enter facility information via the web portal which will be able to be captured automatically by the Envision database.

CUPA's 1st Update (9-8-09): We are distributing the required forms at each annual inspection. The information from the forms will be entered into Envision Connect and online access via CERS will be available after data conversion and implementation are complete. Envision Connect implementation is under way and we are expecting to go live in October 2009.

Cal/EPA's 1st Response: Please refer to SWRCB's Response.

- **SWRCB's Response:** The SWRCB appreciates the effort the CUPA is making to correct this deficiency. Please provide an update on the CUPA's UST forms implementation in Envision Connect in the next progress report.

7. **Deficiency:** The CUPA's permit does not include all the required UST specific elements. It is missing monitoring requirements of both tanks and piping or an attached approved monitoring plan.

Preliminary Corrective Actions: By August 10, 2009, the CUPA will issue permits with monitoring requirements or attach an approved monitoring plan. The CUPA can develop a template containing the monitoring options and indicate what each facility has or the monitoring requirements may be shown on the permit as: Monitoring or programming for monitoring will be conducted at the locations of the following equipment, if installed: monitoring system control panels; sensors monitoring tank annular spaces, sumps, dispenser pans, spill containers, or other secondary containment areas (e.g. double-walled piping); mechanical or electronic line leak detectors; and in-tank liquid level probes (if used for leak detection). Also monitoring options for automatic pump shutdown, fail safe operation, or other programming options will be specified.

Additionally, if the CUPA wants to list equipment test due dates and other pertinent information they may do so.

CUPA's 1st Update (9-8-09): We are currently assuring that operators have completed current Forms A, B, Response, and Monitoring Plan at each inspection. The forms will be entered in to Envision Connect and future permits will have the required information printed on the permit.

Cal/EPA's 1st Response: Please refer to SWRCB's Response.

- **SWRCB's Response:** The SWRCB appreciates the effort the CUPA is making to correct this deficiency. Please provide an update on the CUPA's UST forms implementation in Envision Connect in the next progress report. SWRCB will consider this deficiency corrected if, in the next update, the CUPA demonstrates that its UST permits contain the UST specific elements.

8. **Deficiency:** In some cases, the CUPA is not following-up and/or documenting RTC for businesses cited for violations in Notices to Comply and inspection reports/Notices of Violation. Out of 12 files reviewed by DTSC, 4 files did not contain evidence of RTC or CUPA follow-up documentation. Below are some businesses that were cited for violations, but documentation of RTC or CUPA follow-up was not found:

- Magee Auto Shop – inspected 8-8-07
- Eureka Smog & Repair – inspected 4-4-08
- Cal Redwood Acquisition -- inspected 6-12-06
- Ronald C. Ruchong DDS – inspected 5-30-07

Documenting facility RTC and CUPA follow-up actions is required as part of the CUPA's implementation of its Inspection and Enforcement (I and E) plan. In addition, this information is required for the CUPA's Annual Summary Reports.

Preliminary Corrective Actions: By September 10, 2009, the CUPA will follow-up with businesses cited for violations and document RTC actions. In the absence of RTC documentation from businesses, the CUPA will document follow-up actions like reinspections, enforcement letters, etc.

On the first progress report, the CUPA will submit to Cal/EPA an action plan as to how it will follow-up with businesses with violations on a more consistent basis.

CUPA's 1st Update (9-8-09): Envision Connect automates the inspection and reinspection process by identifying all open violations. Inspectors will have their home screens set up so that uncorrected violations appear on their "to-do" list when the required correction date has arrived. If the follow-up indicates that the correction has not been made, an NOV will be issued with possible formal enforcement, if needed. Administrative staff will follow up on minor violations with businesses and enter RTC into Envision Connect.

Cal/EPA's 1st Response: Please refer to DTSC's Response.

- **DTSC's Response:**

9. **Deficiency:** The CUPA did not demonstrate that its staff had been adequately trained in the identification of hazardous waste violations for the small quantity generators (SQGs)/ conditionally exempt small quantity generators (CESQGs); permanent household hazardous waste facilities (PHHWCFs) and temporary household hazardous waste facilities (THHWCFs). Below are some businesses that were incorrectly cited:

- Dazey's Supply, Inc. – is an SQG facility that was inspected on 12-15-05. The violations cited were for LQG facilities.
- Humboldt Waste Management Authority – inspected on 12-9-08 used a PHHWCFs checklist for conducting a THHWCF inspection.
- Humboldt Waste Management Authority – inspected on 12-9-08 cited violations for tank assessment and annual renewal notification and no PHHWCF checklist was used.

Preliminary Corrective Actions: By December 10, 2009, the CUPA will provide hazardous waste generator and HHWCFs training to staff regarding the identification and citation of hazardous waste violations.

On the first progress report, the CUPA will submit to Cal/EPA action plan or schedule for the types and dates of training.

CUPA's 1st Update (9-8-09): SQG Inspector Training was completed by all inspectors on August 10, 2009.

Cal/EPA's 1st Response: Please refer to DTSC's Response.

- **DTSC's Response:**

10. Deficiency: The CUPA did not conduct a complete oversight inspection on 6/11/09. During the oversight inspection of California Redwood Acquisition Company, 1165 Maple Creek Road, Korb, the CUPA inspector missed the following SQG hazardous waste violations:

- Failure to mark 18 empty containers with date emptied,
- Failure to check emergency equipment, such as fire extinguishers and eyewash/showers,
- Failure to maintain aisle space,
- Failure to properly label two (2) used oil tanks, and
- Unauthorized storage of spent antifreeze in a tank with the initial date of accumulation of 12/30/07.

Preliminary Corrective Actions: By December 10, 2009, the CUPA will provide hazardous waste generator training to staff regarding the identification and citation of hazardous waste violations.

On the first progress report, the CUPA will submit to Cal/EPA an action plan or schedule for the types and dates of training.

CUPA's 1st Update (9-8-09): SQG Inspector Training was completed by all inspectors on August 10, 2009.

Cal/EPA's 1st Response: Please refer to DTSC's Response.

- **DTSC's Response:**